

EXHIBIT 17

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF IOWA

U.S. EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
Plaintiff,) Civil Action No: 5:19-CV-4063
v.) Hon. Judge Linda R. Reade
SCHUSTER CO.,)
Defendant.)

)

DECLARATION OF CHARLES SCHERBAUM

Pursuant to 28 U.S.C. § 1746, I, Charles Scherbaum, state as follows:

1. I was retained by EEOC to provide professional opinions about a physical ability test used by Schuster Company as part of their employee selection process for truck drivers and the validation report prepared by Chester Hanvey.
2. I have a B.S. in psychology from the University of Washington and a M.S. and Ph.D. in industrial organizational psychology from the University of Washington.
3. I am a tenured and full professor of industrial and organizational psychology at Baruch College, City University of New York. I teach courses at the undergraduate, masters, executive, and doctoral levels on employee selection, performance management, research methods, statistics and psychometrics.
4. A true and correct copy of my report that accurately reflects my qualifications, my opinions, and the bases for my opinions is attached as Exhibit A. By this declaration, I affirm the truth and accuracy of my report and adopt the

statements in my report as if they were set forth herein.

5. Appendix B of my report includes a list of the information sources I used in preparing my report. Among the sources I reviewed Dr. Hanvey's coding of musculoskeletal disorder (MSD) injuries and a dataset containing information about whether injured Schuster employees had taken the CRT test pre-hire.¹

6. Table 2 of my report, reproduced below, shows the number of MSD injuries coded by Dr. Hanvey by year and the number of MSD injuries for employees who took the CRT test pre-hire.

Table 2: Number of MSD Injuries and Completion of the CRT Test Pre-Hire

Implementation of the CRT test	Year	MSD Injuries as Coded by Dr. Hanvey	Number of MSD Injuries for Employees who Took the CRT Test Pre-Hire
Pre CRT	2011	2	---
	2012	2	---
	2013	3	---
	January-May 2014	0	---
Post CRT	June-December 2014	2	0
	2015	0	0
	2016	0	0
	2017	1	1
	2018	3	2
	2019	6	5

7. In 2019, there were almost as many MSD injuries as there were in the 3.5 years before the CRT test was implemented.

8. Also, the number of MSD injuries occurring for employee who passed the CRT test is increasing, not decreasing.

9. I reviewed Dr. Hanvey's Exhibit 6 and computed the number of

¹ Hanvey Report Exhibit 6 and Schuster WorkComp Injuries _withGraphs_07-06-20.xlsx.

injuries of any kind reported between 2011 and 2019. Table 4 from my report, reproduced below, shows these results.

Table 4: Total Number of Injuries at Schuster 2011-2019

Implementation of the CRT test	Year	Total Number of Reported Injuries
Pre CRT	2011	11
	2012	10
	2013	8
	January-May 2014	4
Post CRT	June-December 2014	4
	2015	4
	2016	2
	2017	6
	2018	5
	2019	18

10. There is a decrease in reported injuries right before and shortly after the implementation of the CRT test. However, the reported injuries increase over time.

11. The injury data that Dr. Hanvey used for his report included a total of 73 injuries between 2011 and 2020. Based on Dr. Hanvey's coding, he classified 20 of these injuries as MSD injuries. These 20 MSD injuries make up approximately 27% of all injuries at Schuster over 9 years.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 01/14/2021

Charles Scherbaum

Charles A. Scherbaum